

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7098 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

SAVITABEN M PARMAR

Versus

GOVERNMENT OF GUJARAT

Appearance:

MR HC PANDYA for Petitioner

MR DA BAMBHANIA for Respondent No. 1

SERVED for Respondent No. 2

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 13/12/96

ORAL JUDGMENT :

1. It is the common case of the parties that the petitioner was the nominee in the pension papers and she was paid pension upto November 1986. Later on some other claimant filed a Civil Suit and an injunction order had been passed by the Civil Court and on that basis the payment of pension to the present petitioner was stopped

by the Government of Gujarat. It is also the common case of the parties that now the injunction order has been vacated and the petitioner being the nominee is entitled to receive the pension. The only condition, which has been pointed out by Mr.Bambhania, is that the sanction of the pension, which was granted by the Government of India, Chief Controller of Defence (P),C.O.P. (A), Draupadighat, Allahabad has lapsed on account of the passage of time and, therefore, the pension papers are to be revalidated by respondent No.3. Mr.Bambhania submits that the request for revalidation had already been sent by the Government of Gujarat because for the purpose of paying pension the Government of Gujarat is working as an agency or instrumentality of the Government of India and the concerned authorities at Allahabad. Alongwith the affidavit-in-reply filed by the Administrative Officer of the Director of Accounts and Treasury the calculations have also been annexed as Annexure -I. Both the parties submit that now there is no legal impediment in the payment of pension to the petitioner and the payment shall be made immediately after the receipt of the revalidation and sanction from respondent No.3.

2. Rule was issued by this Court on 20.9.96 but no one has appeared on behalf of respondent No.3 despite service.

3. In the facts and circumstances of this case, it is directed that the respondent No.3 and the concerned authorities shall revalidate the pension papers with appropriate sanction and send the same to the respondents Nos.1 and 2 within a period of one month from the date the copy of this order is served upon respondent No.3 and thereafter within a period of 2 weeks the respondents Nos.1 and 2 would make payment of the due amount of arrears to the petitioner against the pension upto date and would also go on paying the same regularly month by month in accordance with the relevant Rules.

4. This Special Civil Application is accordingly allowed in the terms as aforesaid and the Rule is made absolute with no order as to costs.